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GOVERNMENT CODE § 6103

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14 Attorneys for Defendant City of Burbank

15  
16 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
17 COUNTY OF LOS ANGELES

18 WILLIAM TAYLOR,  
19 Plaintiff,

20 v.

21 CITY OF BURBANK and  
22 DOES 1 through 100, inclusive,  
23 Defendants.

Case No. BC 422252  
Assigned to: Hon John L. Segal, Dept. 50

**JURY INSTRUCTIONS**

FSC Date: Feb. 29, 2012  
FSC Time: 8:30 a.m.  
Trial Date: March 5, 2012  
Action Filed: Sept. 22, 2009

CITY ATTORNEY  
2012 MAR -5 AM 9:41

1 PLEASE TAKE NOTICE that after meeting and conferring, the proposed jury  
2 instructions of the parties are attached hereto as follows:

3	<u>Tab No.</u>	<u>Description</u>
4	1	Instructions to which both sides agree;
5	2	Plaintiff's proposed instructions to which defendant objects; and
6	3	Defendant's proposed instructions to which plaintiff objects.

7  
8  
9 BURKE, WILLIAMS & SORENSEN, LLP  
Ronald F. Frank  
Robert J. Tyson

10  
11  
12 By: 

13 Robert J. Tyson  
14 Attorneys for Defendant  
15 City of Burbank  
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## 100. Preliminary Admonitions

Instruction  
No 14

Request by Plaintiff		Request by Defendant	<input checked="" type="checkbox"/>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused		<div style="border-top: 1px solid black; margin-top: 10px;"> <span style="float: right;">Judge</span> </div>			
Withdrawn					

Instruction  
No 14

You have now been sworn as jurors in this case. I want to impress on you the seriousness and importance of serving on a jury. Trial by jury is a fundamental right in California. The parties have a right to a jury that is selected fairly, that comes to the case without bias, and that will attempt to reach a verdict based on the evidence presented. Before we begin, I need to explain how you must conduct yourselves during the trial.

Do not allow anything that happens outside this courtroom to affect your decision. During the trial do not talk about this case or the people involved in it with anyone, including family and persons living in your household, friends and co-workers, spiritual leaders, advisors, or therapists.

This prohibition is not limited to face-to-face conversations. It also extends to all forms of electronic communications. Do not use any electronic device or media, such as a cell phone or smart phone, PDA, computer, the Internet, any Internet service, any text or instant-messaging service, any Internet chat room, blog, or Web site, including social networking websites or online diaries, to send or receive any information to or from anyone about this case or your experience as a juror until after you have been discharged from your jury duty.

You may say you are on a jury and how long the trial may take, but that is all. You must not even talk about the case with the other jurors until after I tell you that it is time for you to decide the case.

During the trial you must not listen to anyone else talk about the case or the people involved in the case. You must avoid any contact with the parties, the lawyers, the witnesses, and anyone else who may have a connection to the case. If anyone tries to talk to you about this case, tell that person that you cannot discuss it because you are a juror. If he or she keeps talking to you, simply walk away and report the incident to the court attendant as soon as you can.

## 100. Preliminary Admonitions

Instruction

No 14

Request by Plaintiff		Request by Defendant	<input checked="" type="checkbox"/>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused					
Withdrawn					
					Judge

Instruction

No 14

After the trial is over and I have released you from jury duty, you may discuss the case with anyone, but you are not required to do so.

During the trial, do not read, listen to, or watch any news reports about this case. This prohibition extends to the use of the Internet in any way, including reading any blog about the case or about anyone involved with it or using Internet maps or mapping programs or any other program or device to search for or to view any place discussed in the testimony.

Do not do any research on your own or as a group. Do not use dictionaries, the Internet, or other reference materials. Do not investigate the case or conduct any experiments. Do not contact anyone to assist you, such as a family accountant, doctor, or lawyer. Do not visit or view the scene of any event involved in this case. If you happen to pass by the scene, do not stop or investigate. If you do need to view the scene during the trial, you will be taken there as a group under proper supervision.

You must decide this case based only on the evidence presented in this trial and the instructions of law that I will provide. Nothing that you see, hear, or learn outside this courtroom is evidence unless I specifically tell you it is. If you receive any information about this case from any source outside of the courtroom, promptly report it to the court attendant. It is important that all jurors see and hear the same evidence at the same time.

It is important that you keep an open mind throughout this trial. Evidence can only be presented a piece at a time. Do not form or express an opinion about this case while the trial is going on. You must not decide on a verdict until after you have heard all the evidence and have discussed it thoroughly with your fellow jurors in your deliberations.

Do not concern yourselves with the reasons for the rulings I will make during the course of the trial. Do not guess what I may think your verdict should be from anything I might say or

## 100. Preliminary Admonitions

Instruction  
No 14

Request by Plaintiff		Request by Defendant	<input checked="" type="checkbox"/>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused					
Withdrawn					
					Judge

Instruction  
No 14

do.

When you begin your deliberations, you may discuss the case only in the jury room and only when all the jurors are present.

You must decide what the facts are in this case. And, I repeat, your verdict must be based only on the evidence that you hear or see in this courtroom. Do not let bias, sympathy, prejudice, or public opinion influence your verdict.

At the end of the trial, I will explain the law that you must follow to reach your verdict. You must follow the law as I explain it to you, even if you do not agree with the law.

## TAKING NOTES DURING THE TRIAL

Instruction  
No. 102

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				

Instruction  
No. 102

Page 1 of 1

You have been given notebooks and may take notes during the trial. Do not take the notebooks out of the courtroom or jury room at any time during the trial. You may take your notes into the jury room during deliberations.

You should use your notes only to remind yourself of what happened during the trial. Do not let your note-taking interfere with your ability to listen carefully to all the testimony and to watch the witnesses as they testify. Nor should you allow your impression of a witness or other evidence to be influenced by whether or not other jurors are taking notes. Your independent recollection of the evidence should govern your verdict, and you should not allow yourself to be influenced by the notes of other jurors if those notes differ from what you remember.

The court reporter is making a record of everything that is said. If during deliberations you have a question about what the witness said, you should ask that the court reporter's records be read to you. You must accept the court reporter's record as accurate.

At the end of the trial, your notes will be collected and destroyed.

## 104. Nonperson Party

Instruction  
No 16

Request by Plaintiff		Request by Defendant	<input checked="checked" type="checkbox"/>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused					
Withdrawn					
				_____ Judge	

Instruction  
No 16

A city, the City of Burbank, is a party in this lawsuit. The City of Burbank is entitled to the same fair and impartial treatment that you would give to an individual. You must decide this case with the same fairness that you would use if you were deciding the case between individuals.

When I use words like "person" or "he" or "she" in these instructions to refer to a party, those instructions also apply to the City of Burbank.



## 105. Insurance

Instruction

No 17

Request by Plaintiff		Request by Defendant	<input checked="checked" type="checkbox"/>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused					
Withdrawn					
				_____ Judge	

Instruction

No 17

You must not consider whether any of the parties in this case has insurance. The presence or absence of insurance is totally irrelevant. You must decide this case based only on the law and the evidence.

## EVIDENCE

Instruction  
No. 106

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 106

Page 1 of 2

Sworn testimony, documents, or anything else may be admitted into evidence. You must decide what the facts are in this case from the evidence you see or hear during the trial. You may not consider as evidence anything that you see or hear when court is not in session, even something done or said by one of the parties, attorneys, or witnesses.

What the attorneys say during the trial is not evidence. In their opening statements and closing arguments, the attorneys will talk to you about the law and the evidence. What the lawyers say may help you understand the law and the evidence, but their statements and arguments are not evidence.

The attorneys' questions are not evidence. Only the witnesses' answers are evidence. You should not think that something is true just because an attorney's question suggests that it is true. However, the attorneys for both sides can agree that certain facts are true. This agreement is called a "stipulation." No other proof is needed and you must accept those facts as true in this trial.

Each side has the right to object to evidence offered by the other side. If I do not agree

## **EVIDENCE**

Instruction  
No. 106

Instruction  
No. 106

Page 2 of 2

with the objection, I will say it is overruled. If I overrule an objection, the witness will answer and you may consider the evidence. If I agree with the objection, I will say it is sustained. If I sustain an objection, you must ignore the question. If the witness did not answer, you must not guess what he or she might have said or why I sustained the objection. If the witness has already answered, you must ignore the answer.

An attorney may make a motion to strike testimony that you have heard. If I grant the motion, you must totally disregard that testimony. You must treat it as though it did not exist.

## WITNESSES

Instruction  
No. 107

Requested by Plaintiff Bill Taylor	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	_____ Judge			
Withdrawn	<input type="checkbox"/>				

Instruction  
No. 107

Page 1 of 3

A witness is a person who has knowledge related to this case. You will have to decide whether you believe each witness and how important each witness's testimony is to the case. You may believe all, part, or none of a witness's testimony.

In deciding whether to believe a witness's testimony, you may consider, among other factors, the following:

- (a) How well did the witness see, hear, or otherwise sense what he or she described in court?
- (b) How well did the witness remember and describe what happened?
- (c) How did the witness look, act, and speak while testifying?
- (d) Did the witness have any reason to say something that was not true? Did the witness show any bias or prejudice? Did the witness have a personal relationship with any of the parties involved in the case? Does the witness have a personal stake in how this case is decided?
- (e) What was the witness's attitude toward this case or about giving

## **WITNESSES**

Instruction  
No. 107

Instruction  
No. 107

Page 2 of 3

testimony?

Sometimes a witness may say something that is not consistent with something else he or she said. Sometimes different witnesses will give different versions of what happened. People often forget things or make mistakes in what they remember. Also, two people may see the same event but remember it differently. You may consider these differences, but do not decide that testimony is untrue just because it differs from other testimony.

However, if you decide that a witness has deliberately testified untruthfully about something important, you may choose not to believe anything that witness said. On the other hand, if you think the witness testified untruthfully about some things but told the truth about others, you may accept the part you think is true and ignore the rest.

Do not make any decision simply because there were more witnesses on one side than on the other. If you believe it is true, the testimony of a single witness is enough to prove a fact.

You must not be biased in favor of or against any witness because of his or her disability,

## WITNESSES

Instruction  
No. 107

111

Instruction  
No. 107

Page 3 of 3

gender, race, religion, ethnicity, sexual orientation, age, national origin, or socioeconomic status.

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111

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### 111. Instruction to Alternate Jurors

Instruction  
No 18

Request by Plaintiff		Request by Defendant	<input checked="checked" type="checkbox"/>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused					
Withdrawn					

\_\_\_\_\_  
Judge

Instruction  
No 18

As alternate jurors, you are bound by the same rules that govern the conduct of the jurors who are sitting on the panel. You will observe the same trial and should pay attention to all of my instructions just as if you were sitting on the panel. Sometimes a juror needs to be excused during a trial for illness or some other reason. If that happens, an alternate will be selected to take that juror's place.

## QUESTIONS FROM JURORS

Instruction  
No. 112

Requested by Plaintiff Bill Taylor	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	_____ Judge			
Withdrawn	<input type="checkbox"/>				

Instruction  
No. 112

Page 1 of 1

If, during the trial, you have a question that you believe should be asked of a witness, you may write out the question and send it to me through my courtroom staff. I will share your question with the attorneys and decide whether it may be asked.

Do not feel disappointed if your question is not asked. Your question may not be asked for a variety of reasons. For example, the question may call for an answer that is not allowed for legal reasons. Also, you should not try to guess the reason why a question is not asked or speculate about what the answer might have been. Because the decision whether to allow the question is mine alone, do not hold it against any of the attorneys or their clients if your question is not asked.

Remember that you are not an advocate for one side or the other. Each of you is an impartial judge of the facts. Your questions should be posed in as neutral a fashion as possible. Do not discuss any question asked by any juror with any other juror until after deliberations begin.



## BIAS

Instruction  
No. 113

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 113

Page 1 of 1

Each one of us has biases about or certain perceptions or stereotypes of other people.

We may be aware of some of our biases, though we may not share them with others. We may not be fully aware of some of our other biases.

Our biases often affect how we act, favorably or unfavorably, toward someone. Bias can affect our thoughts, how we remember, what we see and hear, whom we believe or disbelieve, and how we make important decisions.

As jurors you are being asked to make very important decisions in this case. You must not let bias, prejudice, or public opinion influence your decision.

Your verdict must be based solely on the evidence presented. You must carefully evaluate the evidence and resist any urge to reach a verdict that is influenced by bias for or against any party or witness.

## BENCH CONFERENCES AND CONFERENCES IN CHAMBERS

Instruction  
No. 114

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 114

Page 1 of 1

From time to time during the trial, it may become necessary for me to talk with the attorneys out of the hearing of the jury, either by having a conference at the bench when the jury is present in the courtroom, or by calling a recess to discuss matters outside of your presence. The purpose of these conferences is not to keep relevant information from you, but to decide how certain evidence is to be treated under the rules of evidence. Do not be concerned about our discussions or try to guess what is being said.

I may not always grant an attorney's request for a conference. Do not consider my granting or denying a request for a conference as any indication of my opinion of the case or of my view of the evidence.

## WHY ELECTRONIC COMMUNICATIONS AND RESEARCH ARE PROHIBITED

Instruction  
No. 116

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 116

Page 1 of 2

I know that many of us are used to communicating and perhaps even learning by electronic communications and research. However, there are good reasons why you must not electronically communicate or do any research on anything having to do with this trial or the parties.

In court, jurors must make important decisions that have consequences for the parties. Those decisions must be based only on the evidence that you hear in this courtroom.

The evidence that is presented in court can be tested; it can be shown to be right or wrong by either side; it can be questioned; and it can be contradicted by other evidence. What you might read or hear on your own could easily be wrong, out of date, or inapplicable to this case.

The parties can receive a fair trial only if the facts and information on which you base your decisions are presented to you as a group, with each juror having the same opportunity to see, hear, and evaluate the evidence.

Also, a trial is a public process that depends on disclosure in the courtroom of facts and evidence. Using information gathered in secret by one or more jurors undermines the public process

## **WHY ELECTRONIC COMMUNICATIONS AND RESEARCH ARE PROHIBITED**

Instruction  
No. 116

Instruction  
No. 116

Page 2 of 2

and violates the rights of the parties.

## OBLIGATION TO PROVE—MORE LIKELY TRUE THAN NOT TRUE

Instruction  
No.200

Requested by Plaintiff Bill Taylor	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	_____ Judge			
Withdrawn	<input type="checkbox"/>				

Instruction  
No.200

Page 1 of 1

A party must persuade you, by the evidence presented in court, that what he or she is required to prove is more likely to be true than not true. This is referred to as "the burden of proof."

After weighing all of the evidence, if you cannot decide that something is more likely to be true than not true, you must conclude that the party did not prove it. You should consider all the evidence, no matter which party produced the evidence.

In criminal trials, the prosecution must prove that the defendant is guilty beyond a reasonable doubt. But in civil trials, such as this one, the party who is required to prove something need prove only that it is more likely to be true than not true.

**MORE LIKELY TRUE--CLEAR AND CONVINCING PROOF**

Instruction  
No. 201

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 201

Page 1 of 1

Certain facts must be proved by clear and convincing evidence, which is a higher burden of proof. This means the party must persuade you that it is highly probable that the fact is true. I will tell you specifically which facts must be proved by clear and convincing evidence.

## DIRECT AND INDIRECT EVIDENCE

Instruction  
No. 202

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 202

Page 1 of 1

Evidence can come in many forms. It can be testimony about what someone saw or heard or smelled. It can be an exhibit admitted into evidence. It can be someone's opinion.

Some evidence proves a fact directly, such as testimony of a witness who saw a jet plane flying across the sky. Some evidence proves a fact indirectly, such as testimony of a witness who saw only the white trail that jet planes often leave. This indirect evidence is sometimes referred to as "circumstantial evidence." In either instance, the witness's testimony is evidence that a jet plane flew across the sky.

As far as the law is concerned, it makes no difference whether evidence is direct or indirect. You may choose to believe or disbelieve either kind. Whether it is direct or indirect, you should give every piece of evidence whatever weight you think it deserves.

## PARTY HAVING POWER TO PRODUCE BETTER EVIDENCE

Instruction  
No. 203

Requested by Plaintiff Bill Taylor	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	_____ Judge			
Withdrawn	<input type="checkbox"/>				

Instruction  
No. 203

Page 1 of 1

You may consider the ability of each party to provide evidence. If a party provided weaker evidence when it could have provided stronger evidence, you may distrust the weaker evidence.



## FAILURE TO EXPLAIN OR DENY EVIDENCE

Instruction  
No.205

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				

Instruction  
No.205

Page 1 of 1

You may consider whether a party failed to explain or deny some unfavorable evidence.

6. Failure to explain or to deny unfavorable evidence may suggest that the evidence is true.

### EVIDENCE ADMITTED FOR LIMITED PURPOSE

Instruction  
No. 206

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 206

Page 1 of 1

During the trial, I explained to you that certain evidence was admitted for a limited purpose. You may consider that evidence only for the limited purpose that I described, and not for any other purpose.

## DEPOSITION AS SUBSTANTIVE EVIDENCE

Instruction  
No. 208

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 208

Page 1 of 1

During the trial, you heard testimony read from a deposition. A deposition is the testimony of a person taken before trial. At a deposition the person is sworn to tell the truth and is questioned by the attorneys. You must consider the deposition testimony that was read to you in the same way as you consider testimony given in court.

## REQUESTS FOR ADMISSIONS

Instruction  
No.210

Requested by Plaintiff Bill Taylor	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No.210

Page 1 of 1

Before trial, each party has the right to ask another party to admit in writing that certain matters are true. If the other party admits those matters, you must accept them as true. No further evidence is required to prove them.

## EXPERT WITNESS TESTIMONY

Instruction  
No. 219

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 219

Page 1 of 1

During the trial you heard testimony from expert witnesses. The law allows an expert to state opinions about matters in his or her field of expertise even if he or she has not witnessed any of the events involved in the trial.

You do not have to accept an expert's opinion. As with any other witness, it is up to you to decide whether you believe the expert's testimony and choose to use it as a basis for your decision.

You may believe all, part, or none of an expert's testimony. In deciding whether to believe an expert's testimony, you should consider:

- a. The expert's training and experience;
- b. The facts the expert relied on; and
- c. The reasons for the expert's opinion.

## EXPERTS--QUESTIONS CONTAINING ASSUMED FACTS

Instruction  
No. 220

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 220

Page 1 of 1

The law allows expert witnesses to be asked questions that are based on assumed facts.

These are sometimes called "hypothetical questions."

In determining the weight to give to the expert's opinion that is based on the assumed facts, you should consider whether the assumed facts are true.

## CONFLICTING EXPERT TESTIMONY

Instruction  
No. 221

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				

Instruction  
No. 221

Page 1 of 1

If the expert witnesses disagreed with one another, you should weigh each opinion against the others. You should examine the reasons given for each opinion and the facts or other matters that each witness relied on. You may also compare the experts' qualifications.

## OPINION TESTIMONY OF LAY WITNESS

Instruction  
No. 223

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 223

Page 1 of 1

A witness who was not testifying as an expert gave an opinion during the trial. You may, but are not required to, accept that opinion. You may give the opinion whatever weight you think is appropriate.

Consider the extent of the witness's opportunity to perceive the matters on which the opinion is based, the reasons the witness gave for the opinion, and the facts or information on which the witness relied in forming that opinion. You must decide whether information on which the witness relied was true and accurate. You may disregard all or any part of an opinion that you find unbelievable, unreasonable, or unsupported by the evidence.



## "MOTIVATING REASON" EXPLAINED

Instruction  
No. 2507

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 2507

Page 1 of 1

A "motivating reason" is a reason that contributed to the decision to take certain action,  
even though other reasons also may have contributed to the decision.

## INTRODUCTION TO TORT DAMAGES--LIABILITY CONTESTED

Instruction  
No. 3900

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 3900

Page 1 of 1

If you decide that Bill Taylor has proved his claim against City of Burbank, you also must decide how much money will reasonably compensate Bill Taylor for the harm. This compensation is called "damages."

The amount of damages must include an award for each item of harm that was caused by City of Burbank's wrongful conduct, even if the particular harm could not have been anticipated.

Bill Taylor does not have to prove the exact amount of damages that will provide reasonable compensation for the harm. However, you must not speculate or guess in awarding damages.

The following are the specific items of damages claimed by Bill Taylor:

## ECONOMIC AND NONECONOMIC DAMAGES

Instruction  
No. 3902

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 3902

Page 1 of 1

The damages claimed by Bill Taylor for the harm caused by City of Burbank fall into two categories called economic damages and noneconomic damages. You will be asked on the verdict form to state the two categories of damages separately.

## ITEMS OF ECONOMIC DAMAGE

Instruction  
No. 3903

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 3903

Page 1 of 1

The following are the specific items of economic damages claimed by Bill Taylor:

## PAST AND FUTURE LOST EARNINGS (ECONOMIC DAMAGE)

Instruction  
No.3903C

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No.3903C

Page 1 of 1

(1) Past and future lost earnings.

To recover damages for past lost earnings, Bill Taylor must prove the amount of income that he has lost to date.

To recover damages for future lost earnings, Bill Taylor must prove the amount of income he will be reasonably certain to lose in the future as a result of the injury.

## LOST EARNING CAPACITY (ECONOMIC DAMAGE)

Instruction  
No. 3903D

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 3903D

Page 1 of 1

(2) The loss of Bill Taylor's ability to earn money.

To recover damages for the loss of the ability to earn money as a result of the injury, Bill

Taylor must prove the reasonable value of that loss to him. It is not necessary that he have a work history.

## ITEMS OF NONECONOMIC DAMAGE

Instruction  
No. 3905

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 3905

Page 1 of 1

The following are the specific items of noneconomic damages claimed by Bill Taylor:

**PUBLIC ENTITIES--COLLATERAL SOURCE PAYMENTS (Gov. Code, § 985)**

Instruction  
No. 3923

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 3923

Page 1 of 1

You shall award damages in an amount that fully compensates plaintiff for damages in accordance with instructions from the court. You shall not speculate or consider any other possible sources of benefit the plaintiff may have received. After you have returned your verdict the court will make whatever adjustments are necessary in this regard.



### 3924. No Punitive Damages

Instruction  
No 23

Request by Plaintiff		Request by Defendant	<input checked="checked" type="checkbox"/>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused					
Withdrawn					
				Judge	

Instruction  
No 23

You must not include in your award any damages to punish or make an example of City of Burbank. Such damages would be punitive damages, and they cannot be a part of your verdict. You must award only the damages that fairly compensate Mr. Taylor for his loss.

## AGGRAVATION OF PREEXISTING CONDITION OR DISABILITY

Instruction  
No. 3927

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 3927

Page 1 of 1

Bill Taylor is not entitled to damages for any physical or emotional condition that he had before City of Burbank's conduct occurred. However, if Bill Taylor had a physical or emotional condition that was made worse by City of Burbank's wrongful conduct, you must award damages that will reasonably and fairly compensate him for the effect on that condition.

## UNUSUALLY SUSCEPTIBLE PLAINTIFF

Instruction  
No. 3928

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 3928

Page 1 of 1

You must decide the full amount of money that will reasonably and fairly compensate Bill Taylor for all damages caused by the wrongful conduct of City of Burbank, even if Bill Taylor was more susceptible to injury than a normally healthy person would have been, and even if a normally healthy person would not have suffered similar injury.

## MITIGATION OF DAMAGES (PERSONAL INJURY)

Instruction  
No. 3930

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 3930

Page 1 of 1

If you decide City of Burbank is responsible for the original harm, Bill Taylor is not entitled to recover damages for harm that City of Burbank proves Bill Taylor could have avoided with reasonable efforts or expenditures.

You should consider the reasonableness of Bill Taylor's efforts in light of the circumstances facing him at the time, including his ability to make the efforts or expenditures without undue risk or hardship.

If Bill Taylor made reasonable efforts to avoid harm, then your award should include reasonable amounts that he spent for this purpose.

### 3934. Damages on Multiple Legal Theories

Instruction  
No 25

Request by Plaintiff		Request by Defendant	<input checked="" type="checkbox"/>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused					
Withdrawn					
Judge _____					

Instruction  
No 25

Mr. Taylor seeks damages from City of Burbank under more than one legal theory. However, each item of damages may be awarded only once, regardless of the number of legal theories alleged.

You will be asked to decide whether City of Burbank is liable to Mr. Taylor under the following legal theories:

1. Retaliation under the Fair Employment and Housing Act for initiating complaints of racial discrimination, initiating a sexual harassment investigation, and/or filing a claim and lawsuit for violation of that Act.

2. Retaliation under Labor Code 1102.5 for disclosing information to a law enforcement agency which disclosed a violation of a state statute.

The following items of damages are recoverable only once under all of the above legal theories:

1. lost past earnings;
2. lost future earnings;
3. past and future pain and suffering.

## DUTY TO MITIGATE DAMAGES FOR PAST LOST EARNINGS

Instruction  
No. 3961

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 3961

Page 1 of 1

Bill Taylor is not entitled to recover damages for economic losses that City of Burbank proves Bill Taylor could have avoided by returning to gainful employment as soon as it was reasonable for him to do so.

To calculate the amount of damages you must:

1. Determine the amount Bill Taylor would have earned from the job he held at the time he was injured; and
2. Subtract the amount Bill Taylor earned or could have earned by returning to gainful employment.

The resulting amount is Bill Taylor's damages for lost earnings.

## DUTY TO MITIGATE DAMAGES FOR FUTURE LOST EARNINGS

Instruction  
No. 3962

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 3962

Page 1 of 1

Bill Taylor is not entitled to recover damages for future economic losses that City of Burbank proves Bill Taylor will be able to avoid by returning to gainful employment as soon as it is reasonable for him to do so.

If you decide that Bill Taylor will be able to return to work, then you must not award him any damages for the amount he will be able to earn from future gainful employment. To calculate the amount of damages you must:

1. Determine the amount Bill Taylor would have earned from the job he held at the time he was injured; and
2. Subtract the amount Bill Taylor is reasonably able to earn from alternate employment.

The resulting amount is Bill Taylor's damages for future lost earnings.

## NO DEDUCTION FOR WORKERS' COMPENSATION BENEFITS PAID

Instruction  
No. 3963

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 3963

Page 1 of 1

Do not consider whether or not Bill Taylor received workers' compensation benefits for his injuries. If you decide in favor of Bill Taylor, you should determine the amount of your verdict according to my instructions concerning damages.



### 3964. Jurors Not to Consider Attorney Fees and Court Costs

Instruction  
No 26

Request by Plaintiff		Request by Defendant	<input checked="checked" type="checkbox"/>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused					
Withdrawn					
				_____ Judge	

Instruction  
No 26

You must not consider, or include as part of any award, attorney fees or expenses that the parties incurred in bringing or defending this lawsuit.

## DUTIES OF THE JUDGE AND JURY

Instruction  
No. 5000

Requested by Plaintiff Bill Taylor	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	_____ Judge			
Withdrawn	<input type="checkbox"/>				

Instruction  
No. 5000

Page 1 of 4

Members of the jury, you have now heard all the evidence . The attorneys will have one last chance to talk to you in closing argument. But before they do, it It is my duty to instruct you on the law that applies to this case. You must follow these instructions as well as those that I previously gave you. You will have a copy of my instructions with you when you go to the jury room to deliberate.

You must decide what the facts are. You must consider all the evidence and then decide what you think happened. You must decide the facts based on the evidence admitted in this trial.

Do not allow anything that happens outside this courtroom to affect your decision. Do not talk about this case or the people involved in it with anyone, including family and persons living in your household, friends and coworkers, spiritual leaders, advisors, or therapists. Do not do any research on your own or as a group. Do not use dictionaries or other reference materials.

These prohibitions on communications and research extend to all forms of electronic communications. Do not use any electronic devices or media, such as a cell phone or smart phone,

## **DUTIES OF THE JUDGE AND JURY**

Instruction  
No. 5000

Instruction  
No. 5000

Page 2 of 4

PDA, computer, tablet device, the Internet, any Internet service, any text or instant-messaging service, any Internet chat room, blog, or website, including social networking websites or online diaries, to send or receive any information to or from anyone about this case or your experience as a juror until after you have been discharged from your jury duty.

Do not investigate the case or conduct any experiments. Do not contact anyone to assist you, such as a family accountant, doctor, or lawyer. Do not visit or view the scene of any event involved in this case. If you happen to pass by the scene, do not stop or investigate. All jurors must see or hear the same evidence at the same time. Do not read, listen to, or watch any news accounts of this trial. You must not let bias, sympathy, prejudice, or public opinion influence your decision.

I will now tell you the law that you must follow to reach your verdict. You must follow the law exactly as I give it to you, even if you disagree with it. If the attorneys say anything different about what the law means, you must follow what I say.

In reaching your verdict, do not guess what I think your verdict should be from something

## **DUTIES OF THE JUDGE AND JURY**

Instruction  
No. 5000

Instruction  
No. 5000

Page 3 of 4

I may have said or done.

Pay careful attention to all the instructions that I give you. All the instructions are important because together they state the law that you will use in this case. You must consider all of the instructions together.

After you have decided what the facts are, you may find that some instructions do not apply. In that case, follow the instructions that do apply and use them together with the facts to reach your verdict.

If I repeat any ideas or rules of law during my instructions, that does not mean that these ideas or rules are more important than the others. In addition, the order in which the instructions are given does not make any difference.

Most of the instructions are typed. However, some handwritten or typewritten words may have been added, and some words may have been deleted. Do not discuss or consider why words may have been added or deleted. Please treat all the words the same, no matter what their

## **DUTIES OF THE JUDGE AND JURY**

Instruction  
No. 5000

Instruction  
No. 5000

Page 4 of 4

format. Simply accept the instruction in its final form.

## EVIDENCE

Instruction  
No. 5002

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 5002

Page 1 of 2

Sworn testimony, documents, or anything else may be admitted into evidence. You must decide what the facts are in this case from the evidence you have seen or heard during the trial, including any exhibits that I admit into evidence. You may not consider as evidence anything that you saw or heard when court was not in session, even something done or said by one of the parties, attorneys, or witnesses.

What the attorneys say during the trial is not evidence. In their opening statements and closing arguments, the attorneys talk to you about the law and the evidence. What the lawyers say may help you understand the law and the evidence, but their statements and arguments are not evidence.

The attorneys' questions are not evidence. Only the witnesses' answers are evidence. You should not think that something is true just because an attorney's question suggested that it was true. However, the attorneys for both sides have agreed that certain facts are true. This agreement is called a stipulation. No other proof is needed and you must accept those facts as true in this trial.

## **EVIDENCE**

Instruction  
No. 5002

Instruction  
No. 5002

Page 2 of 2

Each side had the right to object to evidence offered by the other side. If I sustained an objection to a question, you must ignore the question. If the witness did not answer, you must not guess what he or she might have said or why I sustained the objection. If the witness already answered, you must ignore the answer.

During the trial I granted a motion to strike testimony that you heard. You must totally disregard that testimony. You must treat it as though it did not exist.

## WITNESSES

Instruction  
No. 5003

Requested by Plaintiff Bill Taylor	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	_____ Judge			
Withdrawn	<input type="checkbox"/>				

Instruction  
No. 5003

Page 1 of 3

A witness is a person who has knowledge related to this case. You will have to decide whether you believe each witness and how important each witness's testimony is to the case. You may believe all, part, or none of a witness's testimony.

In deciding whether to believe a witness's testimony, you may consider, among other factors, the following:

- (a) How well did the witness see, hear, or otherwise sense what he or she described in court?
- (b) How well did the witness remember and describe what happened?
- (c) How did the witness look, act, and speak while testifying?
- (d) Did the witness have any reason to say something that was not true? Did the witness show any bias or prejudice? Did the witness have a personal relationship with any of the parties involved in the case? Does the witness have a personal stake in how this case is decided?
- (e) What was the witness's attitude toward this case or about giving



## **WITNESSES**

Instruction  
No. 5003

Instruction  
No. 5003

Page 2 of 3

testimony?

Sometimes a witness may say something that is not consistent with something else he or she said. Sometimes different witnesses will give different versions of what happened. People often forget things or make mistakes in what they remember. Also, two people may see the same event but remember it differently. You may consider these differences, but do not decide that testimony is untrue just because it differs from other testimony.

However, if you decide that a witness deliberately testified untruthfully about something important, you may choose not to believe anything that witness said. On the other hand, if you think the witness testified untruthfully about some things but told the truth about others, you may accept the part you think is true and ignore the rest.

Do not make any decision simply because there were more witnesses on one side than on the other. If you believe it is true, the testimony of a single witness is enough to prove a fact.

You must not be biased in favor of or against any witness because of his or her disability,

## WITNESSES

Instruction  
No. 5003

Instruction  
No. 5003

Page 3 of 3

gender, race, religion, ethnicity, sexual orientation, age, national origin, or socioeconomic status.

## PREDELIBERATION INSTRUCTIONS

Instruction  
No. 5009

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 5009

Page 1 of 3

When you go to the jury room, the first thing you should do is choose a presiding juror.

The presiding juror should see to it that your discussions are orderly and that everyone has a fair chance to be heard.

It is your duty to talk with one another in the jury room and to consider the views of all the jurors. Each of you must decide the case for yourself, but only after you have considered the evidence with the other members of the jury. Feel free to change your mind if you are convinced that your position should be different. You should all try to agree. But do not give up your honest beliefs just because the others think differently.

Please do not state your opinions too strongly at the beginning of your deliberations or immediately announce how you plan to vote as it may interfere with an open discussion. Keep an open mind so that you and your fellow jurors can easily share ideas about the case.

You should use your common sense, but do not use or consider any special training or unique personal experience that any of you have in matters involved in this case. Your training or

## PREDELIBERATION INSTRUCTIONS

Instruction  
No. 5009

Instruction  
No. 5009

Page 2 of 3

experience is not a part of the evidence received in this case.

Sometimes jurors disagree or have questions about the evidence or about what the witnesses said in their testimony. If that happens, you may ask to have testimony read back to you . Also, jurors may need further explanation about the laws that apply to the case. If this happens during your discussions, write down your questions and give them to the court attendant. I will talk with the attorneys before I answer so it may take some time. You should continue your deliberations while you wait for my answer. I will do my best to answer them. When you write me a note, do not tell me how you voted on an issue until I ask for this information in open court.

At least nine jurors must agree on a verdict. When you have finished filling out the form, your presiding juror must write the date and sign it at the bottom and then notify the court attendant that you are ready to present your verdict in the courtroom.

Your decision must be based on your personal evaluation of the evidence presented in the case. Each of you may be asked in open court how you voted on each question.

## **PREDELIBERATION INSTRUCTIONS**

Instruction  
No. 5009

Instruction  
No. 5009

Page 3 of 3

While I know you would not do this, I am required to advise you that you must not base your decision on chance, such as a flip of a coin. If you decide to award damages, you may not agree in advance to simply add up the amounts each juror thinks is right and then, without further deliberations, make the average your verdict.

You may take breaks, but do not discuss this case with anyone, including each other, until all of you are back in the jury room.

## READING BACK OF TRIAL TESTIMONY IN JURY ROOM

Instruction  
No. 5011

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 5011

Page 1 of 2

You may request in writing that trial testimony be read to you. I will have the court reporter read the testimony to you. You may request that all or a part of a witness's testimony be read.

Your request should be as specific as possible. It will be helpful if you can state:

1. The name of the witness;
2. The subject of the testimony you would like to have read; and
3. The name of the attorney or attorneys asking the questions when the testimony was given.

The court reporter is not permitted to talk with you when she or he is reading the testimony you have requested.

While the court reporter is reading the testimony, you may not deliberate or discuss the case.

You may not ask the court reporter to read testimony that was not specifically mentioned

## **READING BACK OF TRIAL TESTIMONY IN JURY ROOM**

Instruction  
No. 5011

Instruction  
No. 5011

Page 2 of 2

in a written request. If your notes differ from the testimony, you must accept the court reporter's record as accurate.

## INTRODUCTION TO SPECIAL VERDICT FORM

Instruction  
No. 5012

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 5012

Page 1 of 1

I will give you a verdict form with questions you must answer. I have already instructed you on the law that you are to use in answering these questions. You must follow my instructions and the form carefully. You must consider each question separately. Although you may discuss the evidence and the issues to be decided in any order, you must answer the questions on the verdict form in the order they appear. After you answer a question, the form tells you what to do next. All 12 of you must deliberate on and answer each question. At least 9 of you must agree on an answer before all of you can move on to the next question. However, the same 9 or more people do not have to agree on each answer.

When you have finished filling out the form, your presiding juror must write the date and sign it at the bottom of the last page and then notify the court attendant that you are ready to present your verdict in the courtroom.



## POLLING THE JURY

Instruction  
No. 5017

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 5017

Page 1 of 1

After your verdict is read in open court, you may be asked individually to indicate whether the verdict expresses your personal vote. This is referred to as "polling" the jury and is done to ensure that at least nine jurors have agreed to each decision.

The verdict form that you will receive asks you to answer several questions. You must vote separately on each question. Although nine or more jurors must agree on each answer, it does not have to be the same nine for each answer. Therefore, it is important for each of you to remember how you have voted on each question so that if the jury is polled, each of you will be able to answer accurately about how you voted.



## OVERVIEW OF TRIAL

Instruction  
No. 101

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 101

Page 1 of 3

To assist you in your tasks as jurors, I will now explain how the trial will proceed. I will begin by identifying the parties to the case. Bill Taylor filed this lawsuit. He is called a plaintiff. He seeks damages from City of Burbank, who is called a defendant.

Bill Taylor claims he was demoted and terminated by the City of Burbank for reporting and then suing the City for his involvement in reporting discrimination and unlawful conduct. City of Burbank denies those claims.

First, each side may make an opening statement, but neither side is required to do so. An opening statement is not evidence. It is simply an outline to help you understand what that party expects the evidence will show. Also, because it is often difficult to give you the evidence in the order we would prefer, the opening statement allows you to keep an overview of the case in mind during the presentation of the evidence.

Next, the jury will hear the evidence. Bill Taylor will present evidence first. When Bill

## OVERVIEW OF TRIAL

Instruction  
No. 101

Instruction  
No. 101

Page 2 of 3

Taylor is finished, City of Burbank will have an opportunity to present evidence.

Each witness will first be questioned by the side that asked the witness to testify. This is called direct examination. Then the other side is permitted to question the witness. This is called cross-examination.

Documents or objects referred to during the trial are called exhibits. Exhibits are given a number so that they may be clearly identified. Exhibits are not evidence until I admit them into evidence. During your deliberations, you will be able to look at all exhibits admitted into evidence.

There are many rules that govern whether something will be admitted into evidence. As one side presents evidence, the other side has the right to object and to ask me to decide if the evidence is permitted by the rules. Usually, I will decide immediately, but sometimes I may have to hear arguments outside of your presence.

After the evidence has been presented, I will instruct you on the law that applies to the case and the attorneys will make closing arguments. What the parties say in closing argument is not

## OVERVIEW OF TRIAL

Instruction  
No. 101

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evidence. The arguments are offered to help you understand the evidence and how the law applies to it.

## WILLFUL SUPPRESSION OF EVIDENCE

Instruction  
No. 204

Requested by Plaintiff Bill Taylor	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	_____ Judge			
Withdrawn	<input type="checkbox"/>				

Instruction  
No. 204

Page 1 of 1

You may consider whether one party intentionally concealed or destroyed evidence. If

you decide that a party did so, you may decide that the evidence would have been unfavorable to that party.

## USE OF INTERROGATORIES OF A PARTY

Instruction  
No. 209

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 209

Page 1 of 1

Before trial, each party has the right to ask the other parties to answer written questions.

These questions are called interrogatories. The answers are also in writing and are given under oath.

You must consider the questions and answers that were read to you the same as if the questions and answers had been given in court.

# RETALIATION (Gov. Code, § 12940(h))

Instruction  
No. 2505

Requested by Plaintiff Bill Taylor	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
				Judge	

Instruction  
No. 2505

Page 1 of 2

Bill Taylor claims that City of Burbank retaliated against him for (1), reporting racial discrimination and for initiating an investigation into sexual harassment with an outside agency, and/or (2) for filing a written claim or lawsuit for FEHA retaliation. To establish this claim, Bill Taylor must prove all of the following:

1. That Bill Taylor either complained about racial discrimination or initiated an investigation into sexual harassment and/or filed a written claim or lawsuit for FEHA retaliation;

2. That City of Burbank demoted and/or subsequently terminated Bill Taylor;

or

That City of Burbank engaged in conduct that, taken as a whole, materially and adversely affected the terms and conditions of Bill Taylor's employment;

3. That Bill Taylor's complaint about racial discrimination or initiating an investigation into sexual harassment and/or his filing a written claim or lawsuit for FEHA retaliation was a motivating reason for City of Burbank's decision to demote and/or terminate Bill Taylor;



**RETALIATION (Gov. Code, § 12940(h))**

Instruction  
No. 2505

Instruction  
No. 2505

Page 2 of 2

4. That Bill Taylor was harmed; and

5. That City of Burbank's conduct was a substantial factor in causing Bill

Taylor's harm.

Special Instruction No. <u>1</u>		Authorities California Civil Jury Instruction Companion Handbook, section 9:2, pages 737-734 (West Publishing): California Labor Code section 1102.5	
Requested by Plaintiff	<b>X</b>	Requested by Defendant	
Given as Requested		Given as Modified	
Refused		Given on Court's Motion	
Withdrawn		Judge	

Instruction  
No. 1

Bill Taylor alleges that the City of Burbank violated *Labor Code* section 1102.5. Bill Taylor claims that his employer retaliated against him for disclosing information to a law enforcement agency when he had reasonable cause to believe the information disclosed a violation of state statute. To establish this claim, Bill Taylor must establish, by a preponderance of the evidence, all of the following:

1. Bill Taylor had a reasonable cause to believe that his employer violated a state statute;

2. Bill Taylor disclosed information regarding the violation of a state statute to a government or law enforcement agency, or

That Bill Taylor refused to participate in an activity that he reasonably believed would result in a violation of state statute;

3. The employer took retaliatory actions against Bill Taylor for disclosing information regarding the violation of state statute, or

The employer took retaliatory action against Bill Taylor for refusing to participate in an activity that he reasonably believed would result in a violation of state statute;

4. Bill Taylor's disclosure of information or refusal to participate in an activity that he reasonably believed would result in a violation of state statute was a contributing cause in the employer's retaliatory actions against Bill Taylor; and

5. Employer's retaliatory actions caused Bill Taylor damage, loss or harm.

A disclosure made by an employee of a government or law enforcement agency to his or her employer is a disclosure of information to a government or law enforcement agency.

Special Instruction No. <u>2</u>		Authorities <b>California Civil Jury Instruction Companion Handbook, section 9:2, page 734 (West Publishing); California Labor Code section 1102.6</b>	
Requested by Plaintiff	<b>X</b>	Requested by Defendant	
Given as Requested		Given as Modified	
Refused		Given on Court's Motion	
Withdrawn		Judge	

Instruction  
No. 2

**If you find that Bill Taylor has proved by a preponderance of the evidence that the City of Burbank violated Labor Code section 1102.5, you must determine whether the employer proved by clear and convincing evidence that the adverse employment action(s) would have occurred for legitimate, independent reasons even if Bill Taylor had not disclosed information regarding what he believed to be the violation of state statute or refused to participate in and activity that would result in violation of state statute.**

Special Instruction No. <u>3</u>		Authorities <b>California Penal Code §459</b>		
Requested by Plaintiff	<b>X</b>	Requested by Defendant		Requested by
Given as Requested		Given as Modified		Given on Court's Motion
Refused				
Withdrawn		Judge		

Instruction  
No. 3

Every person who enters any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other building, tent, vessel, as defined in Section 21 of the Harbors and Navigation Code, floating home, as defined in subdivision (d) of Section 18075.55 of the Health and Safety Code, railroad car, locked or sealed cargo container, whether or not mounted on a vehicle, trailer coach, as defined in Section 635 of the Vehicle Code, any house car, as defined in Section 362 of the Vehicle Code, inhabited camper, as defined in Section 243 of the Vehicle Code, vehicle as defined by the Vehicle Code, when the doors are locked, aircraft as defined by Section 21012 of the Public Utilities Code, or mine or any underground portion thereof, with intent to commit grand or petit larceny or any felony is guilty of burglary. As used in this chapter, "inhabited" means currently being used for dwelling purposes, whether occupied or not. A house, trailer, vessel designed for habitation, or portion of a building is currently being used for dwelling purposes if, at the time of the burglary, it was not occupied solely because a natural or other disaster caused the occupants to leave the premises.

Special Instruction No. <u>4</u>		Authorities <b>18 U.S. Code Sec. 1510</b>	
Requested by Plaintiff	<b>X</b>	Requested by Defendant	
Given as Requested		Given as Modified	
Refused		Given on Court's Motion	
Withdrawn		Judge _____	

Instruction  
No. 4

(a) Whoever willfully endeavors by means of bribery to obstruct, delay, or prevent the communication of information relating to a violation of any criminal statute of the United States by any person to a criminal investigator shall be fined under this title, or imprisoned not more than five years, or both.

(b)(1) Whoever, being an officer of a financial institution, with the intent to obstruct a judicial proceeding, directly or indirectly notifies any other person about the existence or contents of a subpoena for records of that financial institution, or information that has been furnished in response to that subpoena, shall be fined under this title or imprisoned not more than 5 years, or both.

(2) Whoever, being an officer of a financial institution, directly or indirectly notifies -  
(A) a customer of that financial institution whose records are sought by a subpoena for records; or

(B) any other person named in that subpoena; about the existence or contents of that subpoena or information that has been furnished in response to that subpoena, shall be fined under this title or imprisoned not more than one year, or both.

(3) As used in this subsection -

(A) the term "an officer of a financial institution" means an officer, director, partner, employee, agent, or attorney of or for a financial institution; and

(B) the term "subpoena for records" means a Federal grand jury subpoena or a Department of Justice subpoena (issued under section 3486 of title 18), for customer records that has been served relating to a violation of, or a conspiracy to violate -

(i) section 215, 656, 657, 1005, 1006, 1007, 1014, 1344, 1956, 1957, or chapter 53 of title 31; or

(ii) section 1341 or 1343 affecting a financial institution.

(c) As used in this section, the term "criminal investigator" means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations of or prosecutions for violations of the criminal laws of the United States.

(d)(1) Whoever -

(A) acting as, or being, an officer, director, agent or employee of a person engaged in the business of insurance whose activities affect interstate commerce, or

(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business, with intent to obstruct a judicial proceeding, directly or indirectly notifies any other person about the existence or contents of a subpoena for records of that person engaged in such business or information that has been furnished to a Federal grand jury in response to that subpoena, shall be fined as provided by this title or imprisoned not more than 5 years, or both.

(2) As used in paragraph (1), the term "subpoena for records" means a Federal grand jury subpoena for records that has been served relating to a violation of, or a conspiracy to violate, section 1033 of this title.

(e) Whoever, having been notified of the applicable disclosure prohibitions or confidentiality requirements of section 2709(c)(1) of this title, section 626(d)(1) or 627(c)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681u(d)(1) or 1681v(c)(1)), section 1114(a)(3)(A) or 1114(a)(5)(D)(i) of the Right to Financial Privacy Act (1) (12 U.S.C. 3414(a)(3)(A) or 3414(a)(5)(D)(i)), or section 802(b)(1) of the National Security Act of 1947 (50 U.S.C. 436(b)(1)), knowingly and with the intent to obstruct an investigation or judicial proceeding violates such prohibitions or requirements applicable by law to such person shall be imprisoned for not more than five years, fined under this title, or both.

Special Instruction No. <u>5</u>		Authorities <b>California Government Code §12940</b>	
Requested by Plaintiff	<b>X</b>	Requested by Defendant	
Given as Requested		Given as Modified	
Refused		Requested by	
Withdrawn		Given on Court's Motion	
		Judge	

Instruction  
No. 5

It shall be unlawful employment practice, unless based upon a bona fide occupational qualification, or, except where based upon applicable security regulations established by the United States of the State of California:

(a) For an employer, because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation of any person, to refuse to hire or employ the person or to refuse to select the person for a training program leading to employment, or to bar or to discharge the person from employment or from a training program leading to employment, or to discriminate against the person in compensation or in terms, conditions, or privileges of employment.

(h) For any employer, labor organization, employment agency, or person to discharge, expel, or otherwise discriminate against any person because the person has opposed any practices forbidden under this part or because the person has filed a complaint, testified, or assisted in any proceeding under this part.

# **CORPORATION ACTS THROUGH ITS OFFICERS AND EMPLOYEES**

<b>Special Instruction No. 13.30</b>		<b>Authorities</b>			
Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	<hr/> <b>Judge</b>			
Withdrawn	<input type="checkbox"/>				

Instruction  
No. 13.30

Page 1 of 1

The City of Burbank is a municipal entity. A municipal entity can act only through its officers and employees. Any act or omission of an officer or employee within the scope of authority or employment is in law the act or omission of such corporation.



## PRESENT CASH VALUE

Instruction  
No. 3904A

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="checked" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 3904A

Page 1 of 1

If you decide that Bill Taylor's harm includes future economic damages for loss of income, then the amount of those future damages must be reduced to their present cash value. This is necessary because money received now will, through investment, grow to a larger amount in the future. City of Burbank must prove the amount by which future damages should be reduced to present value.

To find present cash value, you must determine the amount of money that, if reasonably invested today, will provide Bill Taylor with the amount of his future damages.

You may consider expert testimony in determining the present cash value of future economic damages. You must use the interest rate of \_\_\_ percent/ and specify other stipulated information agreed to by the parties in determining the present cash value of future economic damages.

## USE OF PRESENT-VALUE TABLES

Instruction  
No. 3904B

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 3904B

Page 1 of 10

For Table A:

Use Worksheet A and Table A to compute the present value of specify future damages that can be expressed as a regular dollar amount over a determinable period of time, e.g., lost future income or the cost of permanent medical care.

1. Determine the amount of Bill Taylor's future loss for e.g., lost income each year. Enter this amount into Worksheet A, Step 1.
2. Determine the number of years that this loss will continue. Enter this amount into Worksheet A, Step 2.
3. Select the interest rate that you decide based on the expert testimony that you have heard represents the most likely rate of return on money invested today over that period of

## USE OF PRESENT-VALUE TABLES

Instruction  
No. 3904B

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No. 3904B

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years. Enter this amount into Worksheet A, Step 3.

4. Select the appropriate Present Value Factor from Table A. To locate this factor, use the Number of Years from Step 2 on the worksheet and the Interest Rate from Step 3 on the worksheet and find the number that is the intersection of the Interest Rate column and Number of Years row. (For example, if the number of years is 15 and the interest rate is 10 percent, the corresponding Present Value Factor is 7.61.) Enter the factor into Worksheet A, Step 4.

5. Multiply the amount of Bill Taylor's annual future loss from Step 1 by the factor from Step 4. This is the present value of Bill Taylor's total future loss for e.g., lost income. Enter this amount into Worksheet A, Step 5.

## WORKSHEET A

## USE OF PRESENT-VALUE TABLES

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Step 1: Repeating identical annual dollar

amount of future loss: \$ \_\_\_\_\_

Step 2: Number of years that this loss will

continue: \_\_\_\_\_

Step 3: Interest rate that represents a reasonable

rate of return on money invested today

over that period of years: \_\_\_\_\_%

Step 4: Present Value Factor from Table A: \_\_\_\_\_

## USE OF PRESENT-VALUE TABLES

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Step 5: Amount from Step 1 times

Factor from Step 4: \$ \_\_\_\_\_

Enter the amount from Step 5 on your verdict form as Bill Taylor's total future economic loss for e.g., lost income.

For Table B:

Use Worksheet B and Table B to compute the present value of specify future damages that cannot be expressed as a repeating identical dollar amount over a determinable period of time, e.g., future surgeries.

1. Determine the future years in which a future loss will occur. In Column A, starting with the current year, enter each year through the last year that you determined a future loss will occur.

## USE OF PRESENT-VALUE TABLES

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2. Determine the amount of Bill Taylor's future loss for e.g., future surgeries for each year that you determine the loss will occur. Enter these future losses in Column B on the worksheet. Enter \$0 if no future loss occurs in a given year.

3. Select the interest rate that you decide based on the expert testimony that you have heard represents a reasonable rate of return on money invested today over the number of years determined in Step 2. Enter this rate in Column C on the worksheet for each year that future-loss amounts are entered in Column B.

4. Select the appropriate Present Value Factor from Table B for each year for which you have determined that a loss will occur. To locate this factor, use the Number of Years from Column A on the worksheet and the Interest Rate in Column C on the worksheet and find the

## USE OF PRESENT-VALUE TABLES

Instruction  
No. 3904B

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No. 3904B

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number that is the intersection of the Interest Rate column and Number of Years row from the table. (For example, for year 15, if the interest rate is 10 percent, the corresponding Present Value Factor is 0.239.) Enter the appropriate Present Value Factors in Column D. For the current year, the Present Value Factor is 1.000. It is not necessary to select an interest rate for the current year in Step 3.

5. Multiply the amount in Column B by the factor in Column D for each year for which you determined that a loss will occur and enter these amounts in Column E.

6. Add all of the entries in Column E and enter this sum into Total Present Value of Future Loss.

Enter the amount from Step 6 on your verdict form as Bill Taylor's total future economic

## USE OF PRESENT-VALUE TABLES

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No. 3904B

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No. 3904B

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loss for e.g., future surgeries.

### WORKSHEET B

---

A	B	C	D
---	---	---	---

E

---

Year	Dollar	Interest	Present
------	--------	----------	---------

Present Value

Amount of	Rate	Value	of
-----------	------	-------	----

Future

Future Loss	Factor
-------------	--------

Loss



## USE OF PRESENT-VALUE TABLES

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Each Year

---

Current Year	\$	Not	1.000
\$			
(20__)		applicable	
Year 1 (20__)	\$	%	\$
Year 2 (20__)	\$	%	\$
Year 3 (20__)	\$	%	\$
Year 4 (20__)	\$	%	\$
Year 5 (20__)	\$	%	\$
Year 6 (20__)	\$	%	\$
Year 7 (20__)	\$	%	\$
Year 8 (20__)	\$	%	\$

## USE OF PRESENT-VALUE TABLES

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No. 3904B

Instruction  
No. 3904B

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Year 9 (20__)	\$	%	\$
Year 10 (20__)	\$	%	\$
Year 11 (20__)	\$	%	\$
Year 12 (20__)	\$	%	\$
Year 13 (20__)	\$	%	\$
Year 14 (20__)	\$	%	\$
Year 15 (20__)	\$	%	\$
Year 16 (20__)	\$	%	\$
Year 17 (20__)	\$	%	\$
Year 18 (20__)	\$	%	\$
Year 19 (20__)	\$	%	\$
Year 20 (20__)	\$	%	\$
Year 21 (20__)	\$	%	\$

## USE OF PRESENT-VALUE TABLES

Instruction  
No. 3904B

Instruction  
No. 3904B

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Year 22 (20__)	\$	%	\$
Year 23 (20__)	\$	%	\$
Year 24 (20__)	\$	%	\$
Year 25 (20__)	\$	%	\$

---

Total Present Value of Future Loss	\$
------------------------------------	----

(add all amounts in Column E)

---

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**PHYSICAL PAIN, MENTAL SUFFERING, AND EMOTIONAL DISTRESS  
(NONECONOMIC DAMAGE)**

Instruction  
No. 3905A

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>				
Withdrawn	<input type="checkbox"/>				
					Judge

Instruction  
No. 3905A

Page 1 of 1

Past and future physical pain/mental suffering/loss of enjoyment of life/physical

impairment/inconvenience/grief/anxiety/humiliation/emotional distress loss of reputation.

No fixed standard exists for deciding the amount of these noneconomic damages. You must use your judgment to decide a reasonable amount based on the evidence and your common sense.

To recover for future pain and suffering, Bill Taylor must prove that he is reasonably certain to suffer that harm.

For future pain and suffering, determine the amount in current dollars paid at the time of judgment that will compensate Bill Taylor for future pain and suffering. This amount of noneconomic damages should not be further reduced to present cash value because that reduction should only be performed with respect to economic damages.

## LIFE EXPECTANCY

Instruction  
No. 3932

Requested by Plaintiff Bill Taylor	<input checked="checked" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	<hr/>			
Withdrawn	<input type="checkbox"/>				
				Judge	

Instruction  
No. 3932

Page 1 of 1

If you decide Bill Taylor has suffered damages that will continue for the rest of his life, you must determine how long he will probably live. A 51-year-old male is expected to live another 29 years. This is the average life expectancy. Some people live longer and others die sooner.

This published information is evidence of how long a person is likely to live but is not conclusive. In deciding a person's life expectancy, you should also consider, among other factors, that person's health, habits, activities, lifestyle, and occupation.



## 101. Overview of Trial

Instruction  
No 15

Request by Plaintiff		Request by Defendant	<b>X</b>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused					
Withdrawn					
					Judge

Instruction  
No 15

To assist you in your tasks as jurors, I will now explain how the trial will proceed. I will begin by identifying the parties to the case. Mr. Taylor filed this lawsuit. He is called a plaintiff. He seeks damages from City of Burbank, who is called a defendant.

Mr. Taylor claims he was demoted and terminated by the City of Burbank for reporting and then suing the City for his involvement in reporting discrimination and unlawful conduct. The City of Burbank denies those claims. The City contends that plaintiff was re-assigned, not demoted, as part of a departmental restructuring, and later terminated by new management when he was found to have obstructed an internal investigation and lied about it

First, each side may make an opening statement, but neither side is required to do so. An opening statement is not evidence. It is simply an outline to help you understand what that party expects the evidence will show. Also, because it is often difficult to give you the evidence in the order we would prefer, the opening statement allows you to keep an overview of the case in mind during the presentation of the evidence.

Next, the jury will hear the evidence. Mr. Taylor will present evidence first. When Mr. Taylor is finished, the City of Burbank will have an opportunity to present evidence.

Each witness will first be questioned by the side that asked the witness to testify. This is called direct examination. Then the other side is permitted to question the witness. This is called cross-examination.

Documents or objects referred to during the trial are called exhibits. Exhibits are given a number so that they may be clearly identified. Exhibits are not evidence until I admit them into evidence. During your deliberations, you will be able to look at all exhibits admitted into evidence.

There are many rules that govern whether something will be admitted into evidence. As

## 101. Overview of Trial

Instruction  
No 15

Request by Plaintiff		Request by Defendant	X	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused					
Withdrawn					
					Judge

Instruction  
No 15

one side presents evidence, the other side has the right to object and to ask me to decide if the evidence is permitted by the rules. Usually, I will decide immediately, but sometimes I may have to hear arguments outside of your presence.

After the evidence has been presented, I will instruct you on the law that applies to the case and the attorneys will make closing arguments. What the parties say in closing argument is not evidence. The arguments are offered to help you understand the evidence and how the law applies to it.



## 214. Admissions by Silence

Instruction  
No 19

Request by Plaintiff		Request by Defendant	<input checked="" type="checkbox"/>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused		<div style="border-top: 1px solid black; width: 100%; margin-bottom: 5px;"></div> Judge			
Withdrawn					

Instruction  
No 19

You have heard evidence that *[insert name of declarant]* made a statement in the presence of *[insert name of party who remained silent]* that *[insert description of statement]*. You have also heard that *[insert name of party who remained silent]* did not deny the statement.

You may treat the silence of *[insert name of party who remained silent]* as an admission that the statement was true only if you believe all of the following conditions are true:

1. That *[insert name of party who remained silent]* was aware of and understood the statement;
2. That [he/she], by either words or actions, could have denied the statement but [he/she] did not; and
3. That [he/she] would have denied the statement if [he/she] thought it was false. In determining this, you may consider whether, under the circumstances, a reasonable person would have denied the statement if he or she thought it was false.

If you do not decide that all three of these conditions are true, you must not consider *[insert name of party who remained silent]*'s silence as an admission.

## Special Instruction

Instruction

No 1

Request by Plaintiff		Request by Defendant	<b>X</b>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused		_____ Judge			
Withdrawn					
<p>Authority: <i>Alameda County Management Employees Association v. Superior Court of Alameda</i> (2011 Cal. 1<sup>st</sup> Appellate Dist.) 195 Cal.App.4<sup>th</sup> 325; <i>Duffy v. Sarault</i> (1989 1<sup>st</sup> Cir.) 892 F. 2d 139; <i>Kavakich v. Bentleyville</i> (2008 U.S. Dist. W. Dist. Penn.) 2008 U.S. Dist. LEXIS 4836; <i>Lesick v. City of Weberville</i> (1994 U.S. Dist. W. Dist Mich.) 1994 U.S. Dist. LEXIS 11845; <i>Hartman v. Providence</i> (1986 U.S. Dist. Rhode Island) 635 F.Supp. 1395; <i>Weston v. Ferguson</i> (1983 Ohio Supreme Ct.) 8 Ohio St.3d 52)</p>					

Instruction

No 1

Police officers have general due process protections against changes to the terms of their employment. When the employee has been reassigned for purposes of reorganization, however, the employee has no due process protections.

An employer has the right to reassign an employee for purposes of reorganization when there is a bona fide need for government reorganization. If an employer can prove it had a need for government reorganization, the employee is not entitled to any due process protections.

## Special Instruction

Instruction

No 2

Request by Plaintiff		Request by Defendant	<b>X</b>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused		_____ Judge			
Withdrawn					
Authority: <i>Fisher v. San Pedro Peninsula Hospital</i> (1989) 214 Cal.App.3d, 590, 615; <i>Patten v. Grant Joint Union High School Dist.</i> (2005) 134 Cal.App.4th 1378, 1385; <i>Mize-Kurzman v. Marin Community College Dist.</i> (Jan. 10., 2012) 202 Cal.App.4th 832, 136 Cal.Rptr.3d 259, 276-282.					

Instruction

No 2

To support plaintiff's claim of retaliation under the Fair Employment and Housing Act, Government Code § 12940(h) based upon an internal complaint he made, plaintiff Taylor must have initiated a report alleging discrimination, harassment or retaliation in violation of the Fair Employment and Housing Act.

If plaintiff merely passed along or discussed complaints made by other persons, that is not an activity upon which a retaliation claim may be based.

If plaintiff merely engaged in a debate over policies or administrative decisions that he did not have a reasonable belief violated the Fair Employment and Housing Act, even if plaintiff believed those policies or decisions to be unwise, that is not an activity upon which a retaliation claim may be based.

If plaintiff reported alleged wrongdoing of his supervisor to that same supervisor, that is not an activity upon which a retaliation claim may be based.

If plaintiff reported facts that were already known to the City, that is not a an activity upon which a retaliation claim may be based.

## Special Instruction

Instruction

No 3

Request by Plaintiff		Request by Defendant	<b>X</b>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused		_____ Judge			
Withdrawn					
<p>Authority: <i>Patten v. Grant Joint Union High School Dist.</i> (2005) 134 Cal.App.4th 1378, 1385; <i>Mize-Kurzman v. Marin Community College Dist.</i> (Jan. 10., 2012) 202 Cal.App.4th 832, 136 Cal.Rptr.3d 259, 276-282.</p>					

Instruction

No 3

To support plaintiff's claim of retaliation under Labor Code § 12940(h), plaintiff Taylor must have initiated a report of a violation of a state statute.

If plaintiff merely passed along or discussed complaints made by other persons, that is not is not an activity which can support a retaliation claim.

If plaintiff merely engaged in a debate over policies or administrative decisions that he did not have a reasonable belief violated the Fair Employment and Housing Act, even if plaintiff believed those policies or decisions to be unwise, that is not an activity upon which a retaliation claim may be based.

If plaintiff reported alleged wrongdoing of his supervisor to that same supervisor, that is not an activity upon which a retaliation claim may be based.

If plaintiff reported facts that were already known to the City, that is not a an activity upon which a retaliation claim may be based.

## Special Instruction

Instruction

No 4

Request by Plaintiff		Request by Defendant	<b>X</b>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused		Judge _____			
Withdrawn					
<p>Authority: <i>Sada v. Robert F. Kennedy Medical Center.</i> (1997) 56 Cal.App.4th 138, 156-157 (complainant terminated two days after defendants learned of complaint shortly before); <i>Flait v. NAWC</i> (1992) 3 Cal.App.4th 467, 478 (plaintiff fired by same executive he confronted); <i>Clark County School Dist. v. Breedon</i> (2001) 532 U.S. 268, 273-74 (citing cases holding that 3 and 4 month time lag are insufficient, holding that 20 month lag showed no causality at all)</p>					

Instruction

No 4

In order to find that plaintiff's reports of internal complaints or filing of a lawsuit was a motivating reason for an adverse employment action taken by the City against him, you must find a causal link between the two actions. A causal link may be demonstrated by showing a closeness in time and personal relationship between the protected complaint and the subsequent alleged retaliatory adverse employment action. Where the protected act and retaliatory action have little personal relationship, e.g. the people about whom and to whom complaints were made were not involved in the adverse employment decision, plaintiff must show the actions to be very close in time to suggest a causal link. Where the protected act and the retaliatory action are not in close proximity in time, plaintiff must show a close personal relationship between plaintiff's complaints and the persons involved in taking the subsequent adverse employment action against plaintiff in order to show retaliation.

Generally, where a complaint and an adverse employment action are separate by more than three or four months, a causal link is difficult to show.

## Special Instruction

Instruction  
No 5

Request by Plaintiff		Request by Defendant	<b>X</b>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused					
Withdrawn					
Authority: <i>Doe v. Capital Cities</i> (1996) 50 Cal.App.4th 1038, 1053; <i>Sada v. Robert F. Kennedy Medical Center</i> . (1997) 56 Cal.App.4th 138, 156-157.					

Instruction  
No 5

The defendant must know of the protected activity, e.g. making of internal complaints, before the alleged adverse decision is made to support a retaliation claim. Similarly, a retaliation claim cannot be supported by protected activity, such as internal complaints, engaged in after the adverse employment decision had already been made.

## Special Instruction

Instruction

No 6

Request by Plaintiff		Request by Defendant	<b>X</b>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused		_____ Judge			
Withdrawn					
<p>Authority: <i>Casenas v. Fujisawa USA, Inc.</i> (1997) 58 Cal.App.4<sup>th</sup> 101, 118 (extraordinary care employer took to keep alleged harasser and victim separate cited as basis for summary judgment); <i>Star v. West</i> (9<sup>th</sup> Cir. 2001) 237 F.3d 1036, 1038 (harasser moved to a different shift); <i>Smith v. County of Humboldt</i> (N.D. Cal. 2003) 240 F.Supp.2d 1109, 1119-1120 (even just changing work stations to minimize contact sufficient).</p>					

Instruction

No 6

An employer is meeting its obligations under Fair Employment and Housing Act, when it moves an employee accused of harassment to a different work site to avoid contact with the alleged victims.

## Special Instruction

Instruction  
No 7

Request by Plaintiff		Request by Defendant	<b>X</b>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused		_____ Judge			
Withdrawn					
Authority: <i>Hawn v. Executive Jet Mngt., Inc.</i> (9 <sup>th</sup> Cir. 2010) 615 F.3d 1151, 1157-1158 (Ex. 1 hereto).					

Instruction  
No 7

Plaintiff attempted to show that the City's reasons for its actions against him were not true—that the City's stated reasons were merely a pretext—by pointing to other officers whom he contends were treated differently. Using evidence of disparate treatment to attempt to show a pretext requires that the other employees be shown to be similarly situated, which is a “fact intensive inquiry.” Plaintiff bears a significant burden to present a specific and substantial showing that the other employees committed similar misconduct, which was known, and could be proven to a similar extent, and which was evaluated by the same decisionmakers close in time and under similar procedures and policies as plaintiff's discipline.



## Special Instruction

Instruction  
No 8

Request by Plaintiff		Request by Defendant	<b>X</b>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused		_____ Judge			
Withdrawn					
Authority: <i>Caveness v. State Personnel Bd.</i> (1980) 113 Cal.App.3d 617, 631; <i>Flowers v. State Personnel Board</i> (1985) 174 Cal.App.3d 753, 761. See, also, <i>Paulino v. Civil Service Comm'n</i> (1985) 175 Cal.App.3d 962, 972 (false report); <i>Kolender v. San Diego County Civ. Serv. Comm'n</i> (2005) 132 Cal.App.4th 716, 721 (lying re misconduct); <i>Haney v. City of Los Angeles</i> (2003) 109 Cal.App.4th 1, 12 (false reports).					

Instruction  
No 8

The law in California is clear that termination is a valid punishment for a police officer found to have been dishonest in an internal investigation.

## Special Instruction

Instruction

No 9

Request by Plaintiff		Request by Defendant	<b>X</b>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused		_____ Judge			
Withdrawn					
<p>Authority: <i>McRae v. Dept. of Corrections</i> (2006) 142 Cal.App.4<sup>th</sup> 377, 389; <i>McDonnell Douglas Corp. v. Green</i> (1973) 411 U.S. 792.” <i>Loggins v. Kaiser Permanente Int’l</i> (2007) 151 Cal.App.4<sup>th</sup> 1102, 1108-1109; <i>see also</i> <i>Guz v. Bechtel Nat’l Inc.</i> (2000) 24 Cal.4<sup>th</sup> 317, 380; <i>Mixon v. Fair Employment &amp; Housing Comm’n</i> (1987) 192 Cal.App.3d 1306, 1317.</p>					

Instruction

No 9

The City only has a limited burden of production. It need only *produce* a legitimate reason for its actions. The burden of persuading you that the City’s offered reasons were a pretext and that retaliation was actually a motivating reason for the City’s actions always lies with the plaintiff.

## Special Instruction

Instruction  
No 10

Request by Plaintiff		Request by Defendant	<b>X</b>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused		_____ Judge			
Withdrawn					
Authority: <i>Joaquin v. City of Los Angeles</i> (Jan. 23, 2012) 202 Cal.App.4th 1207; California Civil Jury Instruction Companion Handbook, section 9:2, page 737 (West Publishing); California <i>Labor Code</i> section 1102.5					

Instruction  
No 10

Mr. Taylor alleges that the City of Burbank violated *Labor Code* section 1102.5. Mr. Taylor claims that his employer retaliated against him for disclosing information to a law enforcement agency when he had reasonable cause to believe the information disclosed a violation of state statute. To establish this claim, Mr. Taylor must establish, by a preponderance of the evidence, all of the following:

1. Mr. Taylor had a reasonable cause to believe that his employer violated a state statute;
2. Mr. Taylor disclosed information regarding the violation of a state statute to a government or law enforcement agency;
3. The City of Burbank demoted and/or subsequently terminated Mr. Taylor;
4. A motivating reason for the City of Burbank's actions against Plaintiff was the City's intent to retaliate against Mr. Taylor for his disclosure of information that violated a state statute; and
5. The City of Burbank's retaliatory actions caused Mr. Taylor damage, loss or harm.

A report made by an employee of a government or law enforcement agency to his or her employer is a disclosure of information to a government or law enforcement agency.

### Special Instruction

Instruction

No 11

Request by Plaintiff		Request by Defendant	<b>X</b>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused					
Withdrawn					
Authority: California Civil Jury Instruction Companion Handbook, section 9:2, page 738 (West Publishing); California Labor Code section 1102.6					

Instruction

No 11

If you find that Mr. Taylor has proved by a preponderance of the evidence that the City of Burbank violated Labor Code section 1102.5, you must determine whether the employer proved by clear and convincing evidence that the adverse employment action(s) would have occurred for legitimate, independent reasons even if Mr. Taylor had not disclosed information regarding the violation of state statute or refused to participate in and activity that would result in violation of state statute.

## 215. Exercise of a Communication Privilege (modified)

Instruction

No 12

Request by Plaintiff		Request by Defendant	<b>X</b>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused		CACI 215; Evidence Code §§ 1043 and Penal Code §§ 832.5, 832.7(a); Evidence Code ¶913(b).			
Withdrawn		_____ Judge			

Instruction

No 12

There are various legal privileges and privacy protections which give a witness or a party the legal right not to disclose certain kinds of legally protected information, for example what they told their doctor or attorney in confidence, certain contents of a police officer's personnel file, the discussions in a closed session of a City Council, or the work product of an attorney. People and entities, whether witnesses or parties, may exercise these privileges freely and without fear of penalty.

You must not use the fact that a witness or party exercised such a privilege to decide whether he, she, or it should be believed. Indeed, you must not let it affect any of your decisions in this case.

## 2505. Retaliation (Gov. Code, § 12940(h)) (modified)

Instruction  
No 13

Request by Plaintiff		Request by Defendant	<b>X</b>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused		<i>Joaquin v. City of Los Angeles</i> (Jan. 23, 2012) 202 Cal.App.4th 1207  <div style="text-align: right;">_____ Judge</div>			
Withdrawn					

Instruction  
No 13

Mr. Taylor claims that City of Burbank retaliated against him for (1), reporting racial discrimination and for initiating an investigation into sexual harassment with an outside agency, and/or (2) for filing a written claim or lawsuit for FEHA retaliation. To establish this claim, Mr. Taylor must prove all of the following:

1. That Mr. Taylor either complained about racial discrimination or initiated an investigation into sexual harassment and/or filed a written claim or lawsuit for FEHA retaliation;
2. That City of Burbank demoted and/or subsequently terminated Mr. Taylor;
3. That a motivating reason for the City of Burbank's decision to demote and/or terminate Mr. Taylor was the City's intent to retaliate against Mr. Taylor for his complaint about racial discrimination, or for his initiating an investigation into sexual harassment and/or for his filing a written claim or lawsuit for FEHA retaliation.
4. That Mr. Taylor was harmed; and
5. That City of Burbank's conduct was a substantial factor in causing Mr. Taylor's harm.

## Special Instruction

Instruction

No 32

Request by Plaintiff		Request by Defendant	<b>X</b>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused					
Withdrawn					
Judge					
Authority: <i>Horsford v. Board of Trustees of California State 8 University</i> (2005) 132 Cal.App.4th 359, 373					

Instruction

No 32

In order to constitute retaliatory actions, the City's conduct must have materially and adversely affected the terms and conditions of Mr. Taylor's employment. This means that the City's actions must have had a substantial and detrimental effect on Mr. Taylor's employment, such that it is reasonably likely to have impaired a reasonable employee's job performance or prospects for advancement or promotion. Minor or relatively trivial actions by the City that are reasonably likely to do little more than anger or upset a reasonable employee cannot be said to have had a substantial and detrimental effect upon Mr. Taylor's employment and cannot be used to support his retaliation claims.

### 3904A. Present Cash Value

Instruction  
No 20

Request by Plaintiff		Request by Defendant	<b>X</b>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused					
Withdrawn					
				_____ Judge	

Instruction  
No 20

If you decide that Mr. Taylor's harm includes future economic damages for loss of earnings, then the amount of those future damages must be reduced to their present cash value. This is necessary because money received now will, through investment, grow to a larger amount in the future. City of Burbank must prove the amount by which future damages should be reduced to present value.

To find present cash value, you must determine the amount of money that, if reasonably invested today, will provide Mr. Taylor with the amount of his future damages.

You may consider expert testimony in determining the present cash value of future economic damages.



### 3904B. Use of Present-Value Tables

Instruction  
No 21

Request by Plaintiff		Request by Defendant	<b>X</b>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused		<div style="border-top: 1px solid black; width: 100%;"></div> Judge			
Withdrawn					

Instruction  
No 21

Use Worksheet A and Table A to compute the present value of lost earnings.

1. Determine the amount of Mr. Taylor's future loss for lost earnings each year. Enter this amount into Worksheet A, Step 1.
2. Determine the number of years that this loss will continue. Enter this amount into Worksheet A, Step 2.
3. Select the interest rate that you decide based on the expert testimony that you have heard represents the most likely rate of return on money invested today over that period of years. Enter this amount into Worksheet A, Step 3.
4. Select the appropriate Present Value Factor from Table A. To locate this factor, use the Number of Years from Step 2 on the worksheet and the Interest Rate from Step 3 on the worksheet and find the number that is the intersection of the Interest Rate column and Number of Years row. (For example, if the number of years is 15 and the interest rate is 10 percent, the corresponding Present Value Factor is 7.61.) Enter the factor into Worksheet A, Step 4.
5. Multiply the amount of Mr. Taylor's annual future loss from Step 1 by the factor from Step 4. This is the present value of Mr. Taylor's total future loss for lost earnings. Enter this amount into Worksheet A, Step 5.

#### WORKSHEET A

Step 1: Repeating identical annual dollar amount of future loss: \$ \_\_\_\_\_

Step 2: Number of years that this loss will

### 3904B. Use of Present-Value Tables

Instruction  
No 21

Request by Plaintiff		Request by Defendant	<b>X</b>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused		<div style="border-top: 1px solid black; width: 100%; margin-bottom: 5px;"></div> Judge			
Withdrawn					

Instruction  
No 21

continue:

Step 3: Interest rate that represents a reasonable rate of return on money invested today over that period of years:

\_\_\_\_\_

\_\_\_\_\_ %

Step 4: Present Value Factor from Table A:

\_\_\_\_\_

Step 5: Amount from Step 1 times Factor from Step 4:

\$ \_\_\_\_\_

Enter the amount from Step 5 on your verdict form as Mr. Taylor's total future economic loss for lost earnings.

### 3905A. Physical Pain, Mental Suffering, and Emotional Distress (Noneconomic Damage)

Instruction  
No 22

Request by Plaintiff		Request by Defendant	<input checked="checked" type="checkbox"/>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused					
Withdrawn					

Instruction  
No 22

Past and future physical pain, mental suffering, or emotional distress.

No fixed standard exists for deciding the amount of these damages. You must use your judgment to decide a reasonable amount based on the evidence and your common sense.

To recover for future pain or suffering, Mr. Taylor must prove that he is reasonably certain to suffer that harm.

For future pain or suffering, determine the amount in current dollars paid at the time of judgment that will compensate Mr. Taylor for future pain or suffering. This amount should not be further reduced to present cash value because that reduction should only be performed with respect to economic damages.

### 3925. Arguments of Counsel Not Evidence of Damages

Instruction

No 24

Request by Plaintiff		Request by Defendant	<b>X</b>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused					
Withdrawn					
				_____ Judge	

Instruction

No 24

The arguments of the attorneys are not evidence of damages. Your award must be based on your reasoned judgment applied to the testimony of the witnesses and the other evidence that has been admitted during trial.

## 5001. Insurance

Instruction  
No 27

Request by Plaintiff		Request by Defendant	<b>X</b>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused					
Withdrawn					
				_____ Judge	

Instruction  
No 27

You must not consider whether any of the parties in this case has insurance. The presence or absence of insurance is totally irrelevant. You must decide this case based only on the law and the evidence.

### 5006. Nonperson Party

Instruction  
No 28

Request by Plaintiff		Request by Defendant	<b>X</b>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused					
Withdrawn					

Instruction  
No 28

A city, City of Burbank, is a party in this lawsuit. The City is entitled to the same fair and impartial treatment that you would give to an individual. You must decide this case with the same fairness that you would use if you were deciding the case between individuals.

When I use words like "person" or "he" or "she" in these instructions to refer to a party, those instructions also apply to the City of Burbank.

### 5010. Taking Notes During the Trial

Instruction  
No 29

Request by Plaintiff		Request by Defendant	<b>X</b>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused					
Withdrawn					
				_____ Judge	

Instruction  
No 29

If you have taken notes during the trial you may take your notebooks with you into the jury room.

You may use your notes only to help you remember what happened during the trial. Your independent recollection of the evidence should govern your verdict. You should not allow yourself to be influenced by the notes of other jurors if those notes differ from what you remember.

At the end of the trial, your notes will be collected and destroyed.

# **VF-2504. Retaliation (Gov. Code, § 12940(h))**

Instruction  
No 30

Request by Plaintiff		Request by Defendant	<b>X</b>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused					
Withdrawn					
_____ Judge					

Instruction  
No 30

We answer the questions submitted to us as follows:

1. Did Mr. Taylor initiate a report of racial discrimination or initiate an investigation into sexual harassment with an outside agency, or for file a written claim or lawsuit for FEHA retaliation?

       Yes        No

If your answer to question 1 is yes, then answer question 2. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

2. Did City of Burbank demote or terminate Mr. Taylor?

       Yes        No

If your answer to question 2 is yes, then answer question 3. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

3. Was a motivating reason for the City of Burbank's decision to demote and/or terminate Mr. Taylor the City's intent to retaliate against Mr. Taylor for his initiation of a complaint about racial discrimination, or for his initiating an investigation into sexual harassment and/or for his filing a written claim or lawsuit for FEHA retaliation?

       Yes        No

If your answer to question 3 is yes, then answer question 4. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.



Instruction  
No 30

Request by Plaintiff		Request by Defendant	<b>X</b>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused					
Withdrawn					
				_____ Judge	

Instruction  
No 30

4. Was City of Burbank's conduct a substantial factor in causing harm to Mr. Taylor?

     Yes      No

If your answer to question 4 is yes, then answer question 5. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

5. What are Mr. Taylor's damages?

- a. Past economic loss: lost earnings \$ \_\_\_\_\_]
- b. Future economic loss: lost earnings \$ \_\_\_\_\_]
- c. Past noneconomic loss: physical pain/mental suffering: \$ \_\_\_\_\_]
- d. Future noneconomic loss: physical pain/mental suffering: \$ \_\_\_\_\_]

TOTAL \$ \_\_\_\_\_

Signed: \_\_\_\_\_  
Presiding Juror

Dated: \_\_\_\_\_

After all verdict forms have been signed, notify the court attendant that you are ready to present your verdict in the courtroom.

### Special Verdict Form. Retaliation (Labor Code 1102.5)

Instruction  
No 31

Request by Plaintiff		Request by Defendant	<b>X</b>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused					
Withdrawn					
				_____ Judge	

Instruction  
No 31

We answer the questions submitted to us as follows:

1. Did Mr. Taylor have reasonable cause to believe his employer had violated a state statute?

\_\_\_\_ Yes \_\_\_\_ No

If your answer to question 1 is yes, then answer question 2. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

2. Did Mr. Taylor disclose information regarding the violation of a state statute by his employer to a government or law enforcement agency?

\_\_\_\_ Yes \_\_\_\_ No

If your answer to question 2 is yes, then answer question 3. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

3. Did City of Burbank subsequently demote or terminate Mr. Taylor?

\_\_\_\_ Yes \_\_\_\_ No

If your answer to question 3 is yes, then answer question 4. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

Instruction  
No 31

Request by Plaintiff		Request by Defendant	<b>X</b>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused					
Withdrawn					
				_____ Judge	

Instruction  
No 31

4. Was a motivating reason for the City of Burbank's decision to demote and/or terminate Mr. Taylor the City's intent to retaliate against Mr. Taylor for his disclose of a violation of a state statute?

\_\_\_\_ Yes \_\_\_\_ No

If your answer to question 4 is yes, then answer question 5. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

5. Was City of Burbank's conduct a substantial factor in causing harm to Mr. Taylor?

\_\_\_\_ Yes \_\_\_\_ No

If your answer to question 5 is yes, then answer question 6. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

6. What are Mr. Taylor's damages?

- a. Past economic loss: lost earnings \$ \_\_\_\_\_]
- b. Future economic loss: lost earnings \$ \_\_\_\_\_]
- c. Past noneconomic loss: physical pain/mental suffering: \$ \_\_\_\_\_]
- d. Future noneconomic loss: physical pain/mental suffering: \$ \_\_\_\_\_]

TOTAL \$ \_\_\_\_\_

Instruction  
No 31

Request by Plaintiff		Request by Defendant	<b>X</b>	Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused					
Withdrawn					
				_____ Judge	

Instruction  
No 31

Signed: \_\_\_\_\_  
Presiding Juror

Dated: \_\_\_\_\_

After all verdict forms have been signed, notify the court attendant that you are ready to present your verdict in the courtroom.

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**SERVICE LIST**  
*Taylor v. Burbank*  
LASC, Case No. BC422252

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